



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY
SOUTHWEST REGIONAL OFFICE

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DEQ-SWRO

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David K. Paylor
Director

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Regional Director

STATE AIR POLLUTION CONTROL BOARD ENFORCEMENT ACTION ORDER BY CONSENT ISSUED TO Pounding Mill Quarry Corporation Registration No. 11454

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code §§ 10.1 – 1301, 1307, 1309, 1316 and 10.1 – 1184, between the State Air Pollution Control Board and Pounding Mill Quarry Corporation for the purpose of resolving certain violations of State Air Pollution Control Board Regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meanings assigned to them below:

1. "Va. Code" means the Code of Virginia (1950), as amended.
2. "Board" means the State Air Pollution Control Board, a collegial body of the Commonwealth of Virginia described in § 10.1-1301 and § 10.1-1184 of the Code.
3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Code § 10.1-1183.
4. "Director" means the Director of the Department of Environmental Quality.
5. "Regional Office" means the Southwest Regional Office of the Department.
6. "Order" means this document, also known as a Consent Order.
7. "Regulations" means the "State Air Pollution Control Board Regulations for the Control and Abatement of Air Pollution", which have been incorporated into Title 9 of the Virginia Administrative Code (VAC).

8. "Company" means Pounding Mill Quarry Corporation a limestone quarry, aggregate crushing and processing facility located off Rt. 460 at St. Clair Crossing, in Bluefield, in Tazewell County, Virginia.

SECTION C: Findings of Facts and Conclusions of Law

1. Pounding Mill Quarry Corporation owns and operates a limestone quarry, aggregate crushing and processing operation located off Rt. 460 at St. Clair Crossing, Bluefield, Tazewell County, Virginia.
2. Pounding Mill Quarry Corporation was issued a permit to construct and operate a limestone aggregate crushing and processing facility (Registration # 11454) on May 18, 2006.
3. On August 14, 2006 and August 25, 2006, Don Hilt, DEQ Air Inspector, Sr., conducted routine air compliance inspections of Pounding Mill Quarry Corporation's new Bluefield quarry. During a review of the plant operations and permit requirements the following deficiencies were observed:
 - a. Permit condition No. 1 states, "Except as specified in this permit, the permitted facility is to be constructed and operated as represented in the permit applications dated March 10, 2006 and February 24, 2004, including addendum information received March 28, April 11, April 13, April 15, April 25, May 1, May 9, May 10, and May 11, 2006; and March 3, March 30, April 5, April 19, and April 27, 2004. Any changes in the permit application specifications or any existing facilities, which alter the impact of the facility on air quality, may require a permit. Failure to obtain such a permit prior to construction may result in enforcement action." The train loadout is permitted for 2 belt conveyors. During the August 25, 2006 inspection, Don Hilt observed that 3 belt conveyors had been installed at the train loadout. The one additional belt conveyor had been installed without first obtaining a permit.
 - b. Permit condition No. 3 states, "Particulate emissions from the Buell classifier (Ref. BC), and the lime storage enclosure (Ref. LS) shall be controlled by a Buell - baghouse Model GI-108 dust collector, or equivalent. The baghouse shall be provided with adequate access for inspection." The lime storage enclosure is not controlled by a baghouse.
 - c. Permit condition No. 5 states, "Particulate emissions from the transfer of material into and out of the lime storage enclosure (Ref. LS) shall also be controlled by auger transfer to ground, wet suppression, and partial enclosure. The wet suppression system shall be provided with adequate access for inspection." There is no auger transfer to ground.
 - d. Permit condition No. 6 states, "Particulate emissions from the lime conveyor (Ref. C-35) shall be controlled by a Buell - baghouse Model GI-108 dust collector, or equivalent and by partial enclosure, and emissions from conveyors (Refs. C-29 and C-30) shall be controlled by partial enclosure and wet suppression. Particulate emissions from the sand screen (Ref. SS) shall be controlled by full enclosure and wet suppression. The wet suppression systems and enclosures shall be provided with adequate access for inspection." There is no baghouse control or partial enclosure

on the lime conveyor C-35. There is no partial enclosure on conveyors C-29 and C-30 and belt C-29 has no wet suppression. The sand screen does not have wet suppression on the screen or on the belt feeding the screen.

- e. Permit condition No. 7 states, "Particulate emissions from open storage piles and their corresponding conveyors (Refs. C-1, C-4, C-8, C-13, C-14, C-19, C-22, C-25, C-27, C-33, and C-34), the truck dump hopper (Ref. DH), the Deister grizzly feeder, the Telsmith jaw crusher (Ref. JC), the Sandvik S4800 secondary cone crusher (Ref. CC-1), the Sandvik H4800 tertiary cone crusher (Ref. CC-2), the Canica Model 90 choke fed crusher (Ref. CC-3), the Diester BXXHM 6' x 16' 2-deck screen (Ref. S-2), the Conweld 8' x 20' 3-deck scalping screen (Ref. S-2), the Conweld 8' x 20' 3 deck finish screen (Ref. S-3), the Diester 6' x 20' 4-deck sand screen (Ref. SS), the Deister high speed screen (Ref. S-4), the Deister high speed screen (Ref. S-5), the dozer trap (Ref. DT), and the discharge from conveyors (Refs. C-2, C-3, C-5, C-6, C-7, C-9, C-10, C-11, C-12, C-15, C-16, C-17, C-18, C-20, C-21, C-23, C-24, C-26, C-28, C-29, C-30, C-35, and C-37) shall be controlled by wet suppression. The wet suppression systems shall be provided with adequate access for inspection. Particulate emissions from conveyors (Refs. C-31 and C-32) shall be controlled by the use of wet materials from the pug mill. Particulate emissions from conveyor (Ref. C-36) shall be controlled by the use of wet materials from the dozer trap (Ref. DT)." The following 22 belts conveyors and 4 screens had no water sprays : Belts # 4, 5, 7, 8, 9, 10, 11, 12, 13, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 27, 28, and 29. Screens # 3, 4, 5, and 6 had no water sprays on them or on the conveyor belts feeding them.
- f. Permit condition No. 21.b. states, "The permittee shall furnish written notification to the Director, Southwest Regional Office: The actual start-up date of the equipment (as listed in Condition number 2) within 15 days after such date." Pounding Mill Quarry's submitted a notice of start up for the primary section (July 1, 2006), the secondary/tertiary units (July 15, 2006) and the sand plant (July 24, 2006) on August 15, 2006. The date of receipt of this letter did not meet the 15 day deadline after start up of the equipment.
- g. Permit condition No. 26 states, "The permittee shall take the following measures in order to minimize the duration and frequency of excess emissions, with respect to air pollution control equipment and process equipment, which affect such emissions: a) Develop a maintenance schedule and maintain records of all scheduled and non-scheduled maintenance. b) Maintain an inventory of spare parts. Records of maintenance and training shall be maintained on site for a period of five years and shall be made available to DEQ personnel upon request." Pounding Mill Quarry did not provide any maintenance schedule or records when requested.

4. The following regulations may be applicable in part or whole to the above listed permit deficiencies : 9 VAC 5-170-160.A – (Conditions on Approvals) of the Commonwealth of Virginia State Air Pollution Control Board Regulations for the Control and Abatement of Air Pollution states in part: "The board may impose conditions upon permits and other approvals which may be necessary to carry out the policy of the Virginia Air Pollution Control Law, and which are consistent with the regulations of the board. Except as otherwise specified, nothing in this chapter shall be understood to limit the power of the board in this regard. If the owner or other person fails to adhere to the conditions, the board may automatically cancel the permit or approvals. This section shall apply, but not be limited, to approval of variances, approval of control programs, and granting of permits".

9 VAC 5-50-20 E	Special Provisions - Compliance
9 VAC 5-50-50	Special Provisions – Notification, records and reporting
9 VAC 5-50-260	Standards of Performance for Stationary Sources – Standard for stationary sources
9 VAC 5-50-390	Standards of Performance for Stationary Sources - Permits
9 VAC 5-80-1100	Permits for New and Modified Stationary Sources - Applicability
9 VAC 5-80-1180	Permits for New and Modified Stationary Sources – Standards and conditions for granting permits
9 VAC 5-80-1210 D	Permits for New and Modified Stationary Sources – Permit invalidation, suspension, revocation and enforcement -

5. On August 30, 2006, DEQ sent a Notice of Violation Letter (NOV No. 8-8-06) for alleged violations noted in items 3.a-g and 2 above by Certified Mail-Return Receipt Requested, to Pounding Mill Corporation, informing the Company that DEQ had reason to believe that a violation of Air Pollution Law and Regulations had occurred.
6. On September 13, 2006, Pounding Mill Corporation met with DEQ to review the Notice of Violation. Company submitted a letter dated, September 19, 2006, in response to the Notice of Violation letter issued August 30, 2006. The Company reviewed all issued listed in the Notice of Violation, corrections made and outlined the time frame to complete installation of the wet suppression system.

SECTION D: Agreement and Order

By virtue of the authority granted it pursuant to Va. Code §§ 10.1 – 1309 and 10.1-1316 and upon consideration of Va. Code § 10.1 – 1186.2, the Board orders Pounding Mill Corporation, and Pounding Mill Corporation agrees, to perform the actions described below and in Appendix A of this Order. In addition, the Board orders Pounding Mill Corporation, and Pounding Mill Corporation voluntarily agrees, to a civil charge of \$67,870.40 in settlement of the violations cited in this Order, to be paid as follows:

1. Pounding Mill Corporation shall pay \$6,787.04 of the civil charge within 30 days of the effective date of this Order. Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia," delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 1104
Richmond, Virginia 23218

The payment shall include Pounding Mill Corporation's Federal ID number and shall identify that payment is being made as a result of this Order.

2. Pounding Mill Corporation shall satisfy \$61,083.36 of the civil charge by satisfactorily completing the Supplemental Environmental Project (SEP described in Appendix A) of this Order.
3. The net project cost of the SEP to Pounding Mill Corporation shall not be less than the amount set forth in Paragraph D.2. If it is, Pounding Mill Corporation shall pay the remaining amount in accordance with Paragraph D.1. (with respect to payment type, address for payment and identification of payment) of this Order, unless otherwise agreed to by the Department. "Net project costs" means the net present after-tax cost of the SEP, including tax savings, grants, and first-year cost reductions and other efficiencies realized by virtue of project implementation. If the proposed SEP is for a project for which the party will receive an identifiable tax savings (e.g. tax credits for pollution control or recycling equipment), grants, or first-year operation cost reductions or other efficiencies, the net project cost shall be reduced by those amounts. The costs of those portions of SEPs that are funded by state or federal low-interest loans, contract, or grants shall be deducted.
4. By signing this Order Pounding Mill Corporation certifies that it has not commenced performance of the SEP before DEQ identified the violations in this Order and approved the SEP.
5. Pounding Mill Corporation acknowledges that it is solely responsible for completing the SEP project. Any transfer of funds, tasks, or otherwise by Pounding Mill Corporation to a third party, shall not relieve Pounding Mill Corporation of its responsibility to complete the SEP as described in this Order.
6. In the event it publicizes the SEP or the SEP results, Pounding Mill Corporation shall state in a prominent manner that the project is part of a settlement for an enforcement action.
7. The Department has the sole discretion to:
 - a. Authorize any alternate SEP proposed by the Facility; and
 - b. Determine whether the SEP, or alternate SEP, has been completed in a satisfactory manner.
8. Should the Department determine that Pounding Mill Corporation has not completed the SEP, or alternate SEP, in a satisfactory manner, the Department shall so notify Pounding Mill Corporation in writing. Within 30 days of being notified, Pounding Mill Corporation shall pay the amount specified in Paragraph D. 2., above, as provided in Paragraph D.1. (with respect to payment type, address for payment and identification of payment), above.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of Pounding Mill Quarry for good cause shown by the Company, or on its own motion after notice and opportunity to be heard.
2. Nothing herein shall be construed as altering, modifying, or amending any term or condition contained in the Company's Virginia Stationary Source Permit to Construct and Operate dated October 11, 2006.
3. This Order addresses only those violations specifically identified herein. This Order shall not preclude the Board or Director from taking any action authorized by law, including, but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of Pounding Mill Quarry Corporation as may be authorized by law; and/or (3) taking subsequent action to enforce the terms of this Order. Nothing herein shall affect appropriate enforcement actions by other federal, state, or local regulatory authority, whether or not arising out of the same or similar facts.
4. For purposes of this Order and subsequent actions with respect to this order, Pounding Mill Quarry Corporation admits the jurisdictional allegations, factual findings, or conclusions of law contained herein.
5. Pounding Mill Quarry Corporation consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
6. Pounding Mill Quarry Corporation declares it has received fair and due process under the Administrative Process Act, Code §§ 9-6.14:1 et seq., and the State Air Pollution Control Law, and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board or Director to enforce this Order.
7. Failure by Pounding Mill Quarry Corporation to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
8. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
9. Pounding Mill Quarry Corporation shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other act of God, war, strike, or such other occurrence. Pounding Mill Quarry Corporation must show that such circumstances resulting in noncompliance were beyond its control and not due to a lack of good faith or diligence on its part. Pounding Mill Quarry Corporation shall notify the Director, Southwest Regional Office of DEQ within 24 hours with a follow-up in writing within seven days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause

noncompliance with any requirement of this Order. Such notice shall set forth:

- a. the reasons for the delay or noncompliance;
- b. the projected duration of such delay or noncompliance;
- c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
- d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Director, Southwest Regional Office of DEQ within 24 hours of learning of any condition listed above, which the Company intend to assert will result in the impossibility of compliance, shall constitute waiver of any claim of inability to comply with a requirement of this Order.

10. This Order is binding on the parties hereto, their successors in interest, designees, and assigns, jointly and severally.
11. This Order shall become effective upon execution by both the Director or his designee and Pounding Mill Quarry Corporation. Notwithstanding the foregoing, the Company agrees to be bound by any compliance date, which precedes the effective date of this Order.
12. This Order shall continue in effect until the Director or the Board terminates the Order in his or its sole discretion upon 30 days written notice to Pounding Mill Quarry Corporation. Termination of this Order, or of any obligation imposed in this Order, shall not operate to relieve Pounding Mill Quarry Corporation from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

13. By its signature below, Pounding Mill Quarry Corporation voluntarily agrees to the issuance of this Order.

And it is ORDERED this 26th day of January, 2007



Michael D. Overstreet, Regional Director
Department of Environmental Quality

Pounding Mill Quarry Corporation voluntarily agrees to the issuance of this Order.



Ed Treadway
Vice President Corporate Development
Pounding Mill Quarry Corporation

Date: 01-25-07


Commonwealth of Virginia

City/County of Tazewell

The foregoing document was signed and acknowledged before me this 25 day of
January, 2007

by Ed Treadway on behalf of Pounding Mill Quarry Corporation

Date: 1.25.07


Notary Public

My commission expires: October 31, 2008

APPENDIX A

Pounding Mill Quarry Corporation shall perform the Supplemental Environmental Project (SEP) identified below in a manner specified in this Appendix.

1. The SEP to be performed by Pounding Mill Quarry Corporation is the asphalt paving of the access road and reseeding the areas along the access road and areas within the plant as stated in letter from Pounding Mill Quarry Corporation dated November 29, 2006.
2. The SEP shall be completed by July 1, 2007.
3. Pounding Mill Quarry Corporation shall submit progress reports on the SEP on a monthly basis, due the 10th day of each month.
4. Pounding Mill Quarry Corporation shall verify its completion of the SEP in writing, either in the form of a certification from a Certified Public Accountant or a certification from a responsible corporate officer or owner that the SEP has been completed in accordance with the terms of this Order. Pounding Mill Quarry Corporation shall submit the verification to the Department within 45 days of completion of SEP.
5. If the SEP has not or cannot be completed as described in the Order, Pounding Mill Quarry Corporation shall notify DEQ in writing no later than February 15, 2007, such notification shall include:
 - a. an alternate SEP proposal, or
 - b. payment of the amount specified in paragraph D.2., paid as to payment method, address and identification of payment as described in paragraph D. 1..
6. Pounding Mill Quarry Corporation hereby consents to reasonable access by DEQ or its staff to property or documents under the party's control, for verifying progress or completion of the SEP.
7. Pounding Mill Quarry Corporation shall submit to the Department written verification of the final overall and net project cost of the SEP in the form of invoices and proof of payment and a certified statement itemizing costs within 30 days of the project completion date. For the purposes of this submittal, net project costs can be either the actual, final net project costs or the projected net project costs if such projected net project costs statement is accompanied by a CPA certification or certification from Pounding Mill Quarry Corporation's Chief Financial Officer concerning the projected tax savings, grants or first-year operation cost reductions or other efficiencies.
8. Documents to be submitted to the Department, other than the civil charge payment described in Section D of the Order, shall be sent to:

Crystal C. Bazyk
Air Compliance Manager
DEQ-SWRO
PO Box 1688
Abingdon VA 24212-1688